



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **SUZUKI, Jun**

Group Art Unit: **2627**

Serial No.: **10/594,948**

Examiner: **ORTIZ CRIADO, Jorge**

Filed: **July 30, 2007**

P.T.O. Confirmation No.: **5761**

For: **ACTUATOR FOR PICKUP, PICKUP DEVICE, RECORDING MEDIUM DRIVE
DEVICE, AND METHOD OF MANUFACTURING ACTUATOR FOR PICKUP**

RESPONSE TO THE RESTRICTION REQUIREMENT
DATED May 12, 2010

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date: July 9, 2010

Sir:

This paper is submitted in response to the Official Action dated May 12, 2010, extended from June 12, 2010, to July 12, 2009, by a one-month Petition for Extension of Time.

The Examiner and the Applicant's attorney conducted a telephone interview on June 7, 2010. In view of 37 C.F.R. § 1.133, Applicant submitted a statement of the substance of the interview on July 8, 2010. Applicant and Applicant's attorney thank Examiner Ortiz Criado for the telephone interview. The special attention the Examiner paid to the instant application is noted with appreciation. During the interview, pending claims and the Restriction Requirement dated May 12, 2010, were discussed.

On September 29, 2006, original claims 1-11 were filed in the U.S. Patent and Trademark Office and also a Preliminary Amendment was filed in the U.S. Patent and Trademark Office. The

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Preliminary Amendment that was filed on September 29, 2006, was drafted to amend claims 1-11 and add new claims 12-18. During the interview on June 7, 2010, the Examiner indicated that the currently pending claims appear to be the original claims 1-11, as filed on September 29, 2006. Those claims 1-11 are the original claims as filed on September 29, 2006. During the interview on June 7, 2010, the Examiner confirmed that the U.S. Patent and Trademark Office had received the Preliminary Amendment on September 29, 2006. The Examiner noted that the U.S. Patent and Trademark Office did not yet enter the Preliminary Amendment.

During the interview on June 7, 2010, the Examiner stated that he shall now try to get the U.S. Patent and Trademark Office to enter the Preliminary Amendment that was filed on September 29, 2006.

During the telephone interview on June 7, 2010, the Examiner indicated that the Applicant must respond to the Restriction Requirement dated May 12, 2010. The Examiner provided these instructions: In the response to the Restriction Requirement, the Applicant should act as if the Preliminary Amendment was already entered. In other words, the Examiner noted that the Applicant should presume that the Examiner will be able to have the Preliminary Amendment entered. Thus, the Applicant should treat the Restriction Requirement as a restriction among claims 1-18 as shown in the Preliminary Amendment filed September 29, 2006. The Examiner stated that the Restriction Requirement should be treated as pertaining to claims 1-18 as shown in the Preliminary Amendment filed on September 29, 2006. Thus, the Examiner stated that the Restriction Requirement has been

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modified by Examiner through the Interview. In view of the above, Applicant is now responding to the Restriction Requirement as if claims 1-18 are pending (as set forth by the Preliminary Amendment filed on September 29, 2006).

The Restriction Requirement dated May 12, 2010, describes a **Group I** drawn to actuator for a pickup related to a subject matter that comprises five or more linear elastic members.

The Restriction Requirement dated May 12, 2010, describes a **Group II** drawn to actuator for a pickup related to a subject matter that comprises four linear elastic members.

In the Restriction Requirement dated May 12, 2010, the Examiner indicated that claims 1, 2, 7-9, and 11 correspond to **Group I**, and the Examiner indicated that claims 3-6 and 10 correspond to **Group II**. During the interview on June 7, 2010, the Examiner stated that Applicant must identify which claims 1-18 from the Preliminary Amendment correspond to **Group I**, and must also identify which claims 1-18 from the Preliminary Amendment correspond to **Group II**.

In the Official Action dated May 12, 2010, restriction is required between Group (I), Claims 1, 2, 7-9; and Group (II), Claims 3-6 and 10.

In accordance with the instructions provided by the Examiner during the interview on June 7, 2010, Applicant herein identifies claims 1-4, 9, 10, 12, 13, 15, and 17 as corresponding to Group

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(I). Applicant herein identifies claims 5-8, 11, 14, 16, and 18 as corresponding to Group (II). Applicant's identification of claims pertains to the listing of claims 1-18 as set forth in the Preliminary Amendment filed on September 29, 2006.

Applicant hereby provisionally elects the subject matter of Group (I), Claims 1-4, 9, 10, 12, 13, 15, and 17 for prosecution in this application. This election is made with traverse, it being understood that the Applicant's rights to the filing of a divisional application directed to the non-elected subject matter under 35 USC 120 and 35 USC 121 are retained.

Applicant respectfully traverses this restriction requirement because the Examiner has not provided adequate reasons justifying the requirement. The Examiner asserts that "The groups of inventions ... lack the same or corresponding special features for the following reasons:" and the Examiner has failed to list any reasons (see the Restriction Requirement dated May 12, 2010, page 2, lines 19-21).

The Applicant respectfully submits that the restriction requirement is incomplete, and respectfully submits that the restriction requirement fails to satisfy the burden of the U.S. Patent and Trademark Office in issuing such a restriction requirement. No specific reasons are provided by the Examiner (see page 2 of Restriction Requirement, at lines 19-21).

Applicant does not believe that examining the two allegedly separate invention groups would

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place undue burden on the Examiner. In this regard, it is respectfully pointed out that, while relying on PCT Rule 13.2, the Examiner did not provide any specific reasons as to why the groups of inventions lack "the same or corresponding special technical features." If the Examiner still maintains the restriction requirement, Applicant respectfully requests that the specific reasons be given.

In the event that this paper is not timely filed, Applicant hereby petitions for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 01-2340.

In the event any additional fees are required in connection with this response, please charge our Deposit Account No. 01-2340.

Respectfully submitted,

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Enclosure: Petition for Extension of Time